IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 11730 of 1999

Between:

T.Nagalaxmi wife of T.Narayana,

Age 48 years, resident of Sangareddy

Town, Medak district.

..... PETITIONER

AND

1.The Superintending Engineer, Assessments

A.P. Transco, Formerly A.P.S.E.B. Humayun

Nagar, Hyderabad.

2.The Divisional Engineer, Electrical

Assessments, A.P. Transco, Formerly A.P.S.E.B.

Hum,ayun Nagar, Hyderabad.

3.The Asst.Divisional Engineer, (Operations)

A.P. Transco, Formerly APSEB, Human Nagar,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue appropriate writ or order or direction more particularly one in the nature of mandamus declaring the order passed by the 2nd respondent dated 28-6-1996 and also the order of the 1st respondent dated 30-1-1999 in order No.SEA/HYD/F.A.115 (MDK)/D.No.69 which was served on the petitioner on 3-6-1999 as illegal, arbitrary and contrary to law and consequently set aside the above proceedings in the interest of justice and also direct the respondents not to disconnect the power supply to the premises bearing No.3-5-30 having service connection No.2240 situated at Sangareddy town, Medak District.

Counsel for the Petitioner: MR.K.VENKATESH

Counsel for the Respondents: SMT.M.VINOBHA DEVI,STANDING COUNSEL FOR APSEB

The Court made the following:

ORDER

Heard the learned counsel for the petitioner and also the learned Standing Counsel appearing on behalf of the respondents.

The petitioner, who is running a Xerox shop files this Writ Petition *inter alia* seeking to assail the impugned proceedings with regard to the assessment on certain irregularities found during the inspection conducted by the 2nd respondent herein.

The case of the petitioner is that she is running a Xerox shop and during the inspection made on 11-8-1994, it was found that the supply was found tapped directly to the load, from the incoming service phase wire before meter with a red PVC wire, bypassing the meter. Thereafter a provisional assessment was made at Rs.47,785/- which was followed by issuance of show cause notice and on the objections filed by the petitioner, provisional assessment was made at Rs.52,340-40 paise + Rs.150/- towards supervision charges. Aggrieved thereby, the petitioner has filed an appeal and in the said appeal, the amount was reduced to Rs.37,332/- + Rs.150/- towards supervision charges. Hence the Writ Petition.

The learned counsel appearing on behalf of the petitioner submits that having regard to the nature of business, the loss as sought to be assessed is wholly unsustainable and the entire allegations are not correct. These allegations are sought to be repelled on behalf of the respondents.

Considering the submissions made and on perusal of the record, the questions that fall for consideration in this Writ Petition are whether there are any irregularities committed by the petitioner and whether the assessment made is correct?

There is no dispute of the fact that the inspection was made on 11-8-1994 on the allegation of illegal tapping which amounts to serious allegation of pilferage of energy. In both the provisional and final assessment, it was found that the petitioner is guilty of the same. Further in the appeal, the said finding was confirmed, but, however, the amount of assessment was reduced substantially. Having regard to the fact that the authorities have found on facts that the petitioner is responsible for the pilferage of energy, it is not open for this Court to go into the same and re-appreciate it eunder Article 226 of the Constitution of India. Further, even in regard to the quantum of assessment, it is found that the Appellate authority has given sufficient relief to the petitioner by reducing the same substantially by taking into consideration the various facts and circumstances of the case. In view of the same, I do not find any merit in this Writ Petition.

The Writ Petition is, accordingly, dismissed. No costs.

23-12-2004.

Hsd

Asst. Registrar

To

1.The Superintending Engineer, Assessments

A.P. Transco, Formerly A.P.S.E.B. Humayun

Nagar, Hyderabad.

2.The Divisional Engineer, Electrical

Assessments, A.P. Transco, Formerly A.P.S.E.B.

Hum,ayun Nagar, Hyderabad.

3.The Asst.Divisional Engineer, (Operations)

A.P. Transco, Formerly APSEB, Human Nagar,

Hyderabad.

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